

# **Report to the Board of Adjustment**

Prepared by the Maricopa County Planning and Development Department

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**Case: BA 2003146**

Variance

Hearing Date:

February 11, 2004 (continued from January 14, 2004)

Agenda Item:

5

Supervisory District:

4

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\*Indicates new or revised information since the hearing of January 14, 2004

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**Applicant:**

Coe and Van Loo Consultants

**Property Owner:**

C.H.I. Construction

**Request:**

**Blanket Variance to:**

Permit wall heights of up to nine (9) feet where six (6) feet is the maximum allowed.

**This variance is requested from the following Zoning Ordinance Section(s):**

Section 501, Article 501.2.19

**Site Location:**

5602 N. El Mirage Avenue – El Mirage Road and Bethany Home Road (Litchfield Park area)

**Site Size:**

8,520,772 square feet (195.6 acres)

**Existing Zoning:**

Rural-43, R1-7 R.U.P.D. and R1-6 R.U.P.D.

**Current Use:**

Residential/Vacant

**Citizen**

**Support/Opposition:**

At the time this report was written, a letter of opposition had been received from the City of Litchfield Park.

**Staff**

**Recommendation:**

\* **Approve** with stipulations

**Existing On-Site and Surrounding Zoning:**

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1. On-site: Rural-43/ R1-7 R.U.P.D./R1-6 R.U.P.D.  
North: Rural-43  
South: R1-6 R.U.P.D./Ind-2  
East: Rural-43  
West: Rural-43/R1-35/R1-10/R1-8 R.U.P.D.

### Existing On-Site and Surrounding Land Use:

2. On-site: Residential/vacant  
North: Residential/vacant  
South: Residential/vacant/Camelback Road  
East: El Mirage Road/Mining/vacant/Agua Fria River  
West: Residential/vacant

### Background:

3. **October 2, 1989:** The Board of Supervisors (B.O.S.) approved **MP 88-08**, the Wigwam Creek Development Master Plan (D.M.P.) with twenty-two (22) specific stipulations. Since that time, the D.M.P. has undergone minor revisions, although none since 1994.
4. **May 5, 1999:** The B.O.S. approved **Z 98-109**, the R.U.P.D. Plan for Bel Fleur, rezoning a 45.39 gross acre site from Rural-43 to R1-10 R.U.P.D. (Bel Fleur is part of the Wigwam Creek D.M.P. area located south of Camelback Road, but was excepted from the Preliminary Plat for Wigwam Creek South later approved under **S 99-31p**.)
5. **August 18, 1999:** The B.O.S. approved **S 98-50f**, the Final Plat for Bel Fleur. Said site being rezoned under **Z 98-109**. Bel Fleur is a 105-lot, 6-tract single-family residential subdivision on a 45.39-acre site in the R1-10 R.U.P.D. zoning district.
6. **April 5, 2000:** The B.O.S. approved, **MP 88-08A**, a major amendment to the Wigwam Creek D.M.P. There were 43 stipulations of approval including stipulation **rr**. *Where homes are adjacent to the Pioneer Concrete of Arizona, Inc. property, an 8-foot high sound barrier will be provided at the west edge of the 40-foot landscape tract. This 8-foot high barrier will be measured from the El Mirage Road west pavement elevation to the top of the sound barrier. The sound barrier could include or be a combination of landscape berming and a masonry wall.* No other stipulations dealt with wall height issues.
7. **July 20, 2000:** The Commission approved **S 99-31p**, the Preliminary Plat of Wigwam Creek South. This portion of the development is located immediately south of the subject site.

8. **August 23, 2000:** The B.O.S. approved **Z99-55**, the Zoning Plan for Wigwam Creek South.
9. **November 16, 2000:** The Planning and Zoning Commission approved case **S99-31p**, the preliminary plat for Wigwam Creek North. This subdivision consists of 1,200-lots, 52 tracts and two parcels on approximately 335 acres in the Rural-43, R1-35, R1-7 R.U.P.D., R1-6 R.U.P.D. and C-2 P.D. zoning districts. The subject site is located within this subdivision.
10. **December 20, 2000:** The B.O.S. approved case **Z99-53**, the Zoning Plan for Wigwam Creek North.
11. **January 16, 2002:** The B.O.S. approved case **S2000094**, the final plat for Phase 1 of Wigwam Creek North. This particular plat involved approximately 91.15 acres adjacent to the subject site.
12. **July 9, 2002:** The applicant in this case applied for variance requests to permit increased wall heights under cases **BA2002066** and **BA2002067**.
13. **August 14, 2002:** The Board of Adjustment approved case **BA2002066**. Case **BA2002067** was withdrawn due to a staff determination that that specific request did not require a variance.
14. **January 22, 2003:** The B.O.S. approved case **S2002022**, the final plat for Phase 2 of Wigwam Creek North. This particular plat consisted of 640-lots and 29 tracts on 198 acres. The subject site is located in this plat.
15. **November 18, 2003:** The applicant submitted this blanket variance request.
- 16.\* **January 14, 2004:** The Board of Adjustment continued this case to the February hearing date to allow the applicant time to refine the request and provide information pertaining to the number and location of the lots specifically impacted by this request.

## **Findings:**

17. **Maricopa County Department of Transportation:** No response at the time this report was written.
18. **Flood Control District:** No objections to the request with the stipulation that any construction that takes place in the floodplain will require a Floodplain Use Permit (see attached memo).
19. **Environmental Services Department:** No objections to the request.

20. **City of Litchfield Park:** The City of Litchfield Park objects to the request (see attached memo).

### Site Analysis:

21. The subject site is an irregularly shaped parcel of property that has recently been subdivided by the Board of Supervisors under case **S2002022**. This site is a part of the Wigwam Creek master planned community located in the west valley area near Luke Air Force Base. The subdivision of this property created 640 new residential lots and 29 tracts on approximately 198 acres.
22. The subject site is in the process of being developed at this time. The site has been graded and the basic infrastructure has been developed. There are single-family residences being built and nearing completion on the site. Several of these residences are ready for final inspection; however, this cannot be completed until the issues surrounding the perimeter walls are resolved.
23. The following tables are included to illustrate and contrast the base zoning standards with those approved for the R.U.P.D. overlay with those proposed by the applicant:

**R1-6 R.U.P.D. zoning district:** \*Standards indicated in **bold** do not meet base zoning standards.

Standard	R1-6 Zoning District	R1-6 R.U.P.D. Zoning District	Proposed Standard
Front Yard Setback	20-feet	10-feet	10-feet
Rear Yard Setback	25-feet	15-feet	15-feet
Side Yard Setback	5-feet	5-feet	5-feet
Street Side Setback	10-feet	10-feet	10-feet
Maximum Height	30-feet (2 stories)	30-feet (2 stories)	30-feet (2 stories)
Minimum Lot Area	6,000-sq. ft.	4,200-sq. ft.	4,200-sq. ft.
Minimum Lot Width	60-feet	45-feet	45-feet
Lot Coverage	40%	55%	55%
Perimeter Wall Height	6-feet (maximum)	6-feet (maximum)	<b>9-feet</b>

\*Proposed standards indicated in **bold** do not meet base zoning requirements.

(Additional tables on following page)

**R1-7 R.U.P.D. zoning district:** \*Standards indicated in **bold** do not meet base zoning standards.

Standard	R1-7 Zoning District	R1-7 R.U.P.D. Zoning District	Proposed Standard
Front Yard Setback	20-feet	10-feet	10-feet
Rear Yard Setback	25-feet	15-feet	15-feet
Side Yard Setback	5-feet	5-feet	5-feet
Street Side Setback	10-feet	10-feet	10-feet
Maximum Height	30-feet (2 stories)	30-feet (2 stories)	30-feet (2 stories)
Minimum Lot Area	7,000-sq. ft.	7,000-sq. ft.	7,000-sq. ft.
Minimum Lot Width	70-feet	65-feet	65-feet
Lot Coverage	35%	55%	55%
Perimeter Wall Height	6-feet (maximum)	6-feet (maximum)	<b>9-feet</b>

\*Proposed standards indicated in **bold** do not meet base zoning requirements.

**Rural-43 zoning district:**

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	40-feet
Rear Yard Setback	40-feet	40-feet
Side Yard Setback	30-feet	30-feet
Street Side Setback	20-feet	20-feet
Maximum Height	30-feet (2 stories)	30-feet (2 stories)
Minimum Lot Area	43,560-sq. ft. (1.0 ac.)	43,560-sq. ft. (1.0 ac.)
Minimum Lot Width	145-feet	145-feet
Lot Coverage	15%	15%
Perimeter Wall Height	6-feet (maximum)	<b>9-feet</b>

\*Proposed standards indicated in **bold** do not meet base zoning requirements.

**Land Use Analysis:**

24. The area surrounding the subject site is developed, or being developed, with many differing uses. To the north, there are single-family residences located on large lots. To the south is the Wigwam Creek South community. Along with the subject site, this was also a part of the Wigwam Creek master plan and is currently under development. To the west are several smaller subdivisions with different zoning districts (Rural-43, R1-35, and R1-10) and some commercial properties. To the east is the Agua Fria River and several large scale sand and gravel mining operations.
25. Staff research revealed two variance requests that have direct bearing on the subject request. These cases, **BA2002066** and **BA2002067** were requests to permit walls higher than typically allowed in these zoning districts. Both of these cases were located adjacent to the subject site in the Wigwam Creek North, Phase 1 subdivision.

26. The first case, **BA2002066**, was a request to permit a proposed wall height of eight feet where six feet is the maximum allowed. It should be noted that this request was for a specific lot (Lot 218) and not a blanket variance. In this particular case, the wall height was the result of a screen wall being placed on top of a retaining wall just as with the current request. There was a specific property hardship identified with this case due to the topography of the site and the location of the subject property. Staff recommended that the request be approved and the Board of Adjustment concurred.
27. The second case, **BA2002067**, was a request to permit a proposed 5.5' high retaining wall with a 3.5' handrail on top for a total height of nine feet. This request was later withdrawn by the applicant when staff determined that the handrail on the top of the wall did not count towards wall height. This case was also for an individual lot (Lot 193) and not a blanket variance.

### **Plan Analysis:**

- 28.\* This is a request for a blanket variance to permit screen walls on lots within the subject subdivision and perimeter walls along the boundary of the subject subdivision to be up to nine feet in height where six feet is the maximum allowed in the existing zoning districts. These walls are actually a combination of six-foot high screen walls built on top of retaining walls of varying heights. Separately, either wall is allowed "by right" in the existing zoning districts. Together, these walls exceed the maximum allowed wall height for walls along the perimeter of individual lots.
29. Typically, walls of six feet in height or less are allowed "by right" in any zoning district and do not require building permits unless they:
- Act as pool barriers,
  - Are the primary use on the property,
  - Act as horse corrals,
  - Serve to retain soil greater than 18 inches, as measured vertically from finished grade, or
  - Are associated with hillside development.

In this case, permits may be required for the proposed retaining walls depending on the amount of soil retained by the wall. In addition, though not called out in the Zoning Ordinance, walls over six feet in height require that engineered plans be submitted for review and approval by the Plan Review Division of this department. By default, this requires that permits be issued for such a wall.

30. The applicant states that this blanket variance is required to provide proper drainage throughout the subdivision. The proposed retaining walls are required due to the elevation changes encountered when providing workable drainage using the local streets to convey the flows to retention areas or off-site. The applicant further states that the combined screen wall/retaining wall is the only solution due to the narrowness of some lots, which does not allow for a significant grade change from lot to lot and due to "key lot" issues pertaining to clear sight triangle requirements. For further clarification, please review applicant's supplemental questionnaire and narrative (attached).
31. Staff is in agreement with the applicant that the proposed screen wall/retaining wall combination is required with many of the lots within this subdivision. This combination though exceeding the height requirements, will provide for safe and efficient soil retention and will provide the necessary slope along local streets to properly convey water to retention areas. It should also be noted that few, if any, of the proposed walls would actually reach nine feet in height; most will be from seven to eight feet in height. The view from inside the lots affected will typically be that of a six-foot high wall, as guaranteed to prospective buyers when purchasing a lot/residence in this development.
- 32.\* Since the previous hearing regarding this request, the applicant has further clarified the request with staff. The variance would only be required on 147 lots instead of 640 lots and would also include four portions of the perimeter wall area. This is considerably less than the original request and staff believes this reduced request to be supportable. The applicant has demonstrated the presence of a topographical hardship on the subject site due to the terrain and the amount of run-off that must be conveyed during major flooding events.
- 33.\* Staff is of the opinion that the requested blanket variance will have little or no impact on surrounding properties. The wall height variances requested are minimal in nature and are scattered throughout the development as the terrain dictates. In the future, when such conditions are present, staff would recommend to the applicant that the R.U.P.D. process be utilized to account for this type of variance. Staff recommends approval of this request as outlined below.

**Recommendation:** (BA 2003146)

- 34.\* Staff recommends **approval** of the variance request based on the following:
- The existing terrain on-site creates a topographical hardship that justifies the need for a variance.
  - The impact on surrounding properties will be minimal in nature.
  - A condition exists in regards to run-off that justifies the use of retaining walls to ensure the safety of residents within the development.

Subject to the following stipulations:

- a) General compliance with the wall elevations dated received November 18, 2003.
- b) Compliance with the lot exhibit (24" x 36") dated October 14, 2002 and stamped received January 26, 2004.
- c) The applicant shall obtain all necessary permits prior to commencing construction.
- d) The applicant shall pay a \$150.00 site inspection fee to the Flood Control District prior to obtaining permits.
- e) A Floodplain Use Permit must be obtained for any construction that takes place within a designated floodplain.

35.\* If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

clh

**Attachments:** Case Map BA 2003146  
Zoning Map  
Wall Elevations (5 pages)  
\* Lot Exhibit (1 page)  
\* List of Affected Lots (5 pages)  
Application  
Supplemental Questionnaire & Narrative (3 pages)  
Letter of Opposition from the City of Litchfield Park (1 page)  
Flood Control District Memorandum (1 page)  
  
Lot Exhibit - 24" x 36" (1 sheet)